

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 33565

STATE OF IDAHO,	)	2008 Unpublished Opinion No. 544
	)	
Plaintiff-Respondent,	)	Filed: July 10, 2008
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
MONTE LOADER,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Joel D. Horton, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Heather M. Carlson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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PER CURIAM

Monte Loader was charged with seven counts of lewd conduct with a minor, two counts of misdemeanor battery, one count of indecent exposure, one count of attempted rape and one count of battery with intent to commit rape. Pursuant to a plea agreement, Loader pled guilty to one count of lewd conduct with a minor, I.C. § 18-1508, and the state agreed to dismiss the other charges. The district court sentenced Loader to a unified term of twenty years, with four years determinate, and retained jurisdiction. After Loader completed his rider, the district court relinquished jurisdiction and reduced Loader's sentence to a unified term of twenty years, with two and one-half years determinate. Loader filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Loader appeals, contending that the district court abused its discretion by denying his Rule 35 motion.

A Rule 35 motion is a request for leniency which is addressed to the sound discretion of the sentencing court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v.*

*Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007).

Applying the foregoing standards and having reviewed the record, we conclude that the district court did not abuse its discretion by denying Loader's Rule 35 motion for further reduction of sentence. Accordingly, the order of the district court denying Loader's Rule 35 motion is affirmed.